

Application No. 10/797,981
Docket No. 9576
Amendment dated February 19, 2009
Reply to Office Action mailed on December 19, 2008
Customer No. 27752

REMARKS

Claims 1-6, 9 and 15-19 are pending in the present application. Claims 7-8, 10-14 and 20 were canceled by previous amendments. Claims 1, 15 and 19 have been amended.

Claim 1 has been amended to recite that the lathering surfactant is at a level wherein the Average Lather Volume of the lathering personal cleansing composition is greater than or equal to about 15 ml. Support for this amendment can be found in the specification on page 13, lines 27-30. Claim 1 has also been amended to recite that the lathering personal cleansing composition has a BYV greater than 50 dyn/cm². Support for this amendment can be found in the specification on page 4, lines 14-28.

Claim 15 has been amended to recite that the lathering surfactant is at a level wherein the Average Lather Volume of the lathering personal cleansing composition is greater than or equal to about 20 ml. Support for this amendment can be found in the specification on page 13, lines 27-30.

Claim 19 has been amended to recite that the lathering personal cleansing composition has a BYV greater than about 75 dyn/cm.² Support for this amendment can be found on page 4, lines 14-28.

Objection to the Specification and Claim Objections

The Applicants would like to thank the Examiner for the withdrawal of the objections to the specification and the claims.

Claim Rejections - 35 U.S.C. § 112

The Applicants would like to thank the Examiner for the withdrawal of the rejections to the claims.

Claim Rejection - 35 U.S.C. § 102

Rejection under 35 U.S.C. §102 over Date et al. (U.S. Patent No. 5,674,509 hereinafter referred to as "Date")

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Claims 1-3, 5 and 19 are rejected under 35 U.S.C §102(b) as anticipated by Date. The Office Action alleges that Date teaches all of the instantly required claim elements and is considered anticipatory.

The Applicants respectfully obviate and traverse the rejection.

The Applicants respectfully submit that Date does not disclose each and every element of the claims of the present invention; therefore, Date does not anticipate the claims of the present invention. Specifically, Date does not disclose the claim element “wherein the lathering surfactant is at a level wherein the Average Lather Volume of the composition is greater than or equal to about 15 ml.” (*See Applicant’s Claim 1*). The Applicants respectfully state that the newly recited Average Lather Volume claim element in amended claim 1 was originally recited claim 15, which was not rejected under 35 U.S.C. §102 over Date. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection.

Claim Rejection - 35 U.S.C. §103

Rejection under 35 U.S.C. §103(a) over Date in view of Noveon (CASF1-021 “Carbopol Aqua SF-1 Polymer” Dec. 2000 edition hereinafter referred to as “Noveon”) as evidenced by Patel (U.S. Patent No. 6,846,785, hereinafter referred to as “Patel”).

Claims 1 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of Noveon as evidenced by Patel. The Office Action states that Date describes the skin care composition as claimed; however, “DATE does not specifically name alkali-swellable acrylate co-polymer.” Office Action, page 10, 2nd paragraph. The Office Action states that “NOVEON teaches that the copolymer CARBOPOL AQUA SF-1 for use in a clear baby shampoo formulations.” Office Action, page 10, 3rd paragraph. The Office Action concludes “it would be obvious to one of skill in the art at the invention was made to make a cleaning composition comprising alkali swellable cross linked co-polymers, as taught by DATE in view of NOVEON.” Office Action, page 10, 3rd paragraph. The Office Action states “[o]ne of ordinary skill in the art at the time the invention was made would have been motivated to combine these elements into a single

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composition because of the beneficial effects of CARBOPOL AQUA SF-1 in cleaning compositions as taught by NOVEON.” Office Action, page 10, 3rd paragraph.

The Applicants respectfully obviate and traverse the rejection.

The combination of Date, Noveon and Patel does not teach or suggest all of the claim elements; therefore, the Office Action does not establish a prima facie case of obviousness. (See MPEP §2143.03) Specifically, the combination of Date, Noveon and Patel do not teach or suggest lathering personal cleansing has a BYV greater than 50 dyn/cm². Specification on page 4, lines 14-28. At best, Noveon discloses a clear baby shampoo formulation with a BYV of 30-50 dyn/cm.² Further, the Applicants respectfully submit that the newly recited BYV claim element in amended claim 1 was originally recited claim 19, which was not rejected under 35 U.S.C. §103 over Date in view of Noveon, as evidenced by Patel. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection under 35 U.S.C. §103(a) over Date in view of McKelvey et al. (U.S. Patent No. 6,589,517 hereinafter referred to as “McKelvey”).

Claims 1, 4, 6 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of McKelvey. The Office Action states that Date describes the skin care composition, as claimed; however, “DATE does not exemplify di or tri substituted ethoxylated polymers.” Office Action, page 11, 3rd paragraph. The Office Action states that “MCKELVEY teaches the use of alkyl ethoxylates that may be branched, linear, saturated or unsaturated.” Office Action, page 11, 3rd paragraph. The Office Action states that “[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to make a cleaning composition comprising di- and tri- alkyl substituted ethoxylated polymers, as taught by DATE in view of MCKELVEY.” Office Action, page 11, 4th paragraph. The Office Action states that “[o]ne of ordinary skilled in the art at the time of the invention was made would have been motivated to combine these elements into a single composition because MCKELVEY is in the hair composition art

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and exemplifies that any of the mono- di- or tri- alkyl substituted ethoxylated polymers are beneficial thickeners in hair compositions.” Office Action, page 11, 4th paragraph.

The Applicants respectfully obviate and traverse the rejection.

The combination of Date and McKelvey does not teach or suggest all of the claim elements; therefore, the Office Action does not establish a prima facie case of obviousness. (See MPEP §2143.03) Specifically, the combination of Date and McKelvey does not disclose the claim element “wherein the lathering surfactant is at a level wherein the Average Lather Volume of the composition is greater than or equal to about 15 ml.” (See Applicant’s Claim 1). Further, the Applicants respectfully submit that the newly recited Average Lather Volume claim element in amended claim 1 was originally recited claim 15, which was not rejected under 35 U.S.C. §103 over Date in view of McKelvey. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection under 35 U.S.C. §103(a) Over Date in view of Fair et al. (U.S. Patent No. 5,869,441, hereinafter referred to as “Fair”).

Claims 1 and 15-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Date in view of Fair. The Office Action states that Date describes the skin care composition as claimed; however, “DATE does not exemplify the lather volume of the composition or the ratio of anionic surfactants to amphoteric/zwitterionic surfactants from about 1.5:1 to about 1:3.” Office Action, page 12, 3rd paragraph. The Office Action states “FAIR teaches compositions that increase the lather through the use of anionic and zwitterionic lathering surfactants.” Office Action, page 12, 4th paragraph. The Office Action states “[w]hile FAIR does not explicitly teach all of the instant claimed ratios, it is the position of the Examiner that it would be obvious to one of ordinary skill in the art at the time the invention was made to determine suitable ratios of anionic and amphoteric/zwitterionic surfactants through routine and manipulative experimentation to obtain the best possible results, as these are variable parameters attainable within the art.” Office Action, page 12, 4th paragraph. The Office Action states that “[i]t would have

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been obvious to one of ordinary skill in the art at the time the invention was made to make a foaming cleaning composition comprising anionic and amphoteric/zwitterionic lathering surfactants, as taught by DATE in view of FAIR.” Office Action, page 13, 1st paragraph. The Office Action states “[o]ne of ordinary skill in the art at the time the invention was made would have been motivated to combine these elements into a single composition because of the benefits of increasing the later in a skin cleaning composition by using a combination of both the anionic and amphoteric/zwitterionic surfactants taught by FAIR.” Office Action, page 13, 1st paragraph.

The Applicants respectfully obviate and traverse the rejection.

The combination of Date and Fair does not teach or suggest all of the claim elements; therefore, the Office Action does not establish a prima facie case of obviousness. (See MPEP §2143.03) Specifically, the combination of Date and Fair do not teach or suggest lathering personal cleansing has a BYV greater than 50 dyn/cm². At best, Fair describes “personal washing bar compositions, particularly compositions in which the surfactant system comprises 1 to 40% wt. total composition of the salt or salts of hydrophobically modified ethylenediaminetriacetic acid, and additionally comprises one or more anionic surfactants and one or more amphoteric surfactants, wherein no more than 1% of said compositions comprise salts with multivalent counterions (high levels are associated with lather depression).” Fair, col. 2, lines 8-17. The Applicants respectfully submit that the newly recited BYV claim element in amended claim 1 was originally recited claim 19, which was not rejected under 35 U.S.C. §103 over Date in view of Fair. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection.

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Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, reconsideration of this application and allowance of the pending claims are respectfully requested. Should any fee be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

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